THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.717 OF 2007

DATED 18th JANUARY, 2007

Between

Chinthapatla Munikrishnaiah

... Petitioner

AND

The District Collector, Nellore, Nellore District and another.

.... Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.717 OF 2007

ORDER:

The petitioner's grandfather was allegedly in possession of Acs.5.32 in survey No.161/3. It formed part of Periyavaram Estate Village (Venkatagiri Town) in Nellore District. The petitioner alleges that the Estate Manager also issued notices to petitioner's grandfather as well as father and after the Government took over the State, the land was classified as ryoti lands. The petitioner, therefore, filed an application under Section 56(1)(c) of the A.P. (Andhra Area) Estates (Abolition and Conversion into Ryotwari) Act, 1948 (the Act, for brevity) before the Settlement Officer claiming that he has a lawful right in respect of the land in Periyavaram Estate Village. In case bearing No.2/56(1)/89, dated 17.03.1998, the Joint Collector-cum-Settlement Officer rejected the claim. Aggrieved by the same, the petitioner preferred an appeal before the Estates Tribunal-cum-District Court under Section 56(2) of the Act. The same being Civil Miscellaneous Appeal No.15 of 1998 was dismissed on 13.11.2002. Four years thereafter, petitioner filed the instant writ petition assailing the order of the learned District Judge-cum-Tribunal.

The learned counsel for the petitioner submits that the notices issued by the Estates Manager on 16.10.1990, which was marked as Exs.P.2 and P.3 respectively before the Settlement Officer clinchingly prove the possession and claim of the petitioner over the subject land and that the Tribunal committed an error in rejecting these documents.

He also submits that the petitioner is a ryot within the meaning of the Estates Land Act, 1908 as he was in occupation of the ryoti land for a continuous period of twelve years. In such an event, an application under Section 56(1)(c) of the Act is a proper remedy for resolving the dispute as to who is lawful ryot in respect of the ryoti land. Learned counsel for the petitioner would submit that the Appellate Tribunal failed to notice this aspect of the matter and therefore is erroneous.

In the well considered order, the learned District Judge-cum-Estates Tribunal adverted to all the documents produced by the petitioner before the Settlement Officer and came to a conclusion that the allegations made by the petitioner were not proved. Adverting to Exs.P.2 and P.3, learned District Judge observed that even though one seal of Periyavaram Estate was affixed on these documents, they looked fresh and at any rate not of sixty years old documents. The grandfather of the petitioner admittedly occupied the site and he was never recognized as a ryot twelve years prior to coming into force of the Estate Abolition Act. Therefore, this Court holds that the criticism of the impugned order by the learned counsel is without basis and unsustainable. On question of fact both the authorities held that the application filed by the petitioner under Section 56(1)(c) of the Act is misconceived. The question which fell for consideration is one of facts and when both the authorities have held against the petitioner, in the absence of any gross perversity, interference under Article 226 of Constitution of India is not called for.

The writ petition is accordingly dismissed. No costs.

(V.V.S.RAO,J)

18.01.2007.
pln